

SECOND REGULAR SESSION

# SENATE BILL NO. 644

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

3827S.03I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 135.305, 135.686, and 348.436, RSMo, and to enact in lieu thereof ten new sections relating to agricultural tax credits.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 135.305, 135.686, and 348.436, RSMo,  
2 are repealed and ten new sections enacted in lieu thereof, to  
3 be known as sections 135.305, 135.686, 348.436, 620.3500,  
4 620.3505, 620.3510, 620.3515, 620.3520, 620.3525, and 620.3530,  
5 to read as follows:

135.305. A Missouri wood energy producer shall be  
2 eligible for a tax credit on taxes otherwise due under  
3 chapter 143, except sections 143.191 to 143.261, as a  
4 production incentive to produce processed wood products in a  
5 qualified wood-producing facility using Missouri forest  
6 product residue. The tax credit to the wood energy producer  
7 shall be five dollars per ton of processed material. The  
8 credit may be claimed for a period of five years and is to  
9 be a tax credit against the tax otherwise due. No new tax  
10 credits, provided for under sections 135.300 to 135.311,  
11 shall be authorized after June 30, **[2020] 2028**. In no event  
12 shall the aggregate amount of all tax credits allowed under  
13 sections 135.300 to 135.311 exceed six million dollars in  
14 any given fiscal year. There shall be no tax credits  
15 authorized under sections 135.300 to 135.311 unless an  
16 appropriation is made for such tax credits.

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

135.686. 1. This section shall be known and may be  
cited as the "Meat Processing Facility Investment Tax Credit  
Act".

2. As used in this section, the following terms mean:

(1) "Authority", the agricultural and small business  
development authority established in chapter 348;

(2) "Meat processing facility", any commercial plant,  
as defined under section 265.300, at which livestock are  
slaughtered or at which meat or meat products are processed  
for sale commercially and for human consumption;

(3) "Meat processing modernization or expansion",  
constructing, improving, or acquiring buildings or  
facilities, or acquiring equipment for meat processing  
including the following, if used exclusively for meat  
processing and if acquired and placed in service in this  
state during tax years beginning on or after January 1,  
2017, but ending on or before December 31, **[2021] 2028:**

(a) Building construction including livestock  
handling, product intake, storage, and warehouse facilities;

(b) Building additions;

(c) Upgrades to utilities including water, electric,  
heat, refrigeration, freezing, and waste facilities;

(d) Livestock intake and storage equipment;

(e) Processing and manufacturing equipment including  
cutting equipment, mixers, grinders, sausage stuffers, meat  
smokers, curing equipment, cooking equipment, pipes, motors,  
pumps, and valves;

(f) Packaging and handling equipment including  
sealing, bagging, boxing, labeling, conveying, and product  
movement equipment;

(g) Warehouse equipment including storage and curing  
racks;

(h) Waste treatment and waste management equipment including tanks, blowers, separators, dryers, digesters, and equipment that uses waste to produce energy, fuel, or industrial products;

(i) Computer software and hardware used for managing the claimant's meat processing operation including software and hardware related to logistics, inventory management, production plant controls, and temperature monitoring controls; and

(j) Construction or expansion of retail facilities or the purchase or upgrade of retail equipment for the commercial sale of meat products if the retail facility is located at the same location as the meat processing facility;

(4) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265, or otherwise due under chapter 147;

(5) "Taxpayer", any individual or entity who:

(a) Is subject to the tax imposed under chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265, or the tax imposed under chapter 147;

(b) In the case of an individual, is a resident of this state as verified by a 911 address or, in the absence of a 911 system, a physical address; and

(c) Owns a meat processing facility located in this state;

(6) "Used exclusively", used to the exclusion of all other uses except for use not exceeding five percent of total use.

3. For all tax years beginning on or after January 1, 2017, but ending on or before December 31, **[2021] 2028**, a taxpayer shall be allowed a tax credit for meat processing

65 modernization or expansion related to the taxpayer's meat  
66 processing facility. The tax credit amount shall be equal  
67 to twenty-five percent of the amount the taxpayer paid in  
68 the tax year for meat processing modernization or expansion.

69 4. The amount of the tax credit claimed shall not  
70 exceed the amount of the taxpayer's state tax liability for  
71 the tax year for which the credit is claimed. No tax credit  
72 claimed under this section shall be refundable. The tax  
73 credit shall be claimed in the tax year in which the meat  
74 processing modernization or expansion expenses were paid,  
75 but any amount of credit that the taxpayer is prohibited by  
76 this section from claiming in a tax year may be carried  
77 forward to any of the taxpayer's four subsequent tax years.  
78 The total amount of tax credits that any taxpayer may claim  
79 shall not exceed seventy-five thousand dollars per year. If  
80 two or more persons own and operate the meat processing  
81 facility, each person may claim a credit under this section  
82 in proportion to his or her ownership interest; except that,  
83 the aggregate amount of the credits claimed by all persons  
84 who own and operate the meat processing facility shall not  
85 exceed seventy-five thousand dollars per year, **provided that**  
86 **the maximum amount of tax credits that may be authorized for**  
87 **meat processing modernization or expansion located in a**  
88 **county of the second, third, or fourth class shall be**  
89 **increased by ten percent.** The amount of tax credits  
90 authorized in this section and section 135.679 in a calendar  
91 year shall not exceed two million dollars. Tax credits  
92 shall be issued on an as-received application basis until  
93 the calendar year limit is reached. Any credits not issued  
94 in any calendar year shall expire and shall not be issued in  
95 any subsequent year.

5. To claim the tax credit allowed under this section, the taxpayer shall submit to the authority an application for the tax credit on a form provided by the authority and any application fee imposed by the authority. The application shall be filed with the authority at the end of each calendar year in which a meat processing modernization or expansion project was completed and for which a tax credit is claimed under this section. The application shall include any certified documentation, proof of meat processing modernization or expansion, and any other information required by the authority. All required information obtained by the authority shall be confidential and not disclosed except by court order, subpoena, or as otherwise provided by law. If the taxpayer and the meat processing modernization or expansion meet all criteria required by this section and approval is granted by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credit certificates issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit certificate shall have the same rights in the tax credit as the original taxpayer. If a tax credit certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit certificate and the value of the tax credit.

6. Any information provided under this section shall be confidential information, to be shared with no one except state and federal animal health officials, except as provided in subsection 5 of this section.

127           7. The authority shall promulgate rules establishing a  
128 process for verifying that a facility's modernization or  
129 expansion for which tax credits were allowed under this  
130 section has in fact expanded the facility's production  
131 within three years of the issuance of the tax credit and if  
132 not, the authority shall promulgate through rulemaking a  
133 process by which the taxpayer shall repay the authority an  
134 amount equal to that of the tax credit allowed.

135           8. The authority shall, at least annually, submit a  
136 report to the Missouri general assembly reviewing the costs  
137 and benefits of the program established under this section.

138           9. The authority may promulgate rules to implement the  
139 provisions of this section. Any rule or portion of a rule,  
140 as that term is defined in section 536.010, that is created  
141 under the authority delegated in this section shall become  
142 effective only if it complies with and is subject to all of  
143 the provisions of chapter 536 and, if applicable, section  
144 536.028. This section and chapter 536 are nonseverable and  
145 if any of the powers vested with the general assembly  
146 pursuant to chapter 536 to review, to delay the effective  
147 date, or to disapprove and annul a rule are subsequently  
148 held unconstitutional, then the grant of rulemaking  
149 authority and any rule proposed or adopted after August 28,  
150 2016, shall be invalid and void.

151           10. This section shall not be subject to the Missouri  
152 sunset act, sections 23.250 to 23.298.

348.436. The provisions of sections 348.430 to 348.436  
2 shall expire December 31, [2021] 2028.

**620.3500. Sections 620.3500 to 620.3530 shall be known  
2 and may be cited as the "Missouri Rural Workforce  
3 Development Act".**

620.3505. As used in sections 620.3500 to 620.3530,  
the following terms shall mean:

(1) "Affiliate", an entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another entity. An entity is controlled by another entity if the controlling entity holds, directly or indirectly, the majority voting or ownership interest in the controlled entity or has control over day-to-day operations of the controlled entity by contract or by law;

(2) "Agribusiness", a business that produces or provides any goods or services produced in this state and that are normally used by farmers, ranchers, or producers and harvesters of aquatic products in their business operations, or to improve the welfare or livelihood of such persons, or is involved in the processing and marketing of agricultural products, farm supplies, and input suppliers, or is engaged in agribusiness as defined by the United States Department of Agriculture, or is engaged in manufacturing, health care, technology, transportation, or related services, or if not engaged in such industries, the department determines that such investment will be beneficial to the rural area and the economic growth of the state;

(3) "Applicable percentage", zero percent for the first two credit allowance dates, and fifteen percent for the next four credit allowance dates;

(4) "Capital investment", any equity investment in a rural fund by a rural investor which:

(a) Is acquired after the effective date of sections 620.3500 to 620.3530 at its original issuance solely in exchange for cash;

(b) Has one hundred percent of its cash purchase price used by the rural fund to make qualified investments in eligible businesses located in this state by the third anniversary of the initial credit allowance date; and

(c) Is designated by the rural fund as a capital investment under sections 620.3500 to 620.3530 and is certified by the department under the provisions of section 620.3510. This shall include any capital investment that does not meet the provisions of subdivision (1) of subsection 1 of section 620.3510 if such investment was a capital investment in the hands of a prior holder;

(5) "Credit allowance date", the date on which the department certifies a rural fund's capital investment and each of the five anniversary dates of such date thereafter;

(6) "Department", the Missouri department of economic development;

(7) "Eligible business", a business that, at the time of the initial qualified investment in the business:

(a) Has fewer than two hundred fifty employees; and

(b) Has its principal business operations in this state.

Any business which is classified as an eligible business at the time of the initial investment in such business by a rural fund shall remain classified as an eligible business and may receive follow-on investments from any rural fund, and such follow-on investments shall be qualified investments even though such business may not meet the definition of an eligible business at the time of such follow-on investments;

(8) "Principal business operations", the location where at least sixty percent of a business's employees work



64 or where employees who are paid at least sixty percent of  
65 such business's payroll work. A business that has agreed to  
66 relocate employees using the proceeds of a qualified  
67 investment to establish its principal business operations in  
68 a new location shall be deemed to have its principal  
69 business operations in such new location if it satisfied the  
70 requirements of this subdivision no later than one hundred  
71 eighty days after receiving a qualified investment;

72 (9) "Purchase price", the amount paid to the rural  
73 fund that issues a capital investment which shall not exceed  
74 the amount of capital investment authority certified under  
75 the provisions of section 620.3510;

76 (10) "Qualified investment", any investment in an  
77 eligible business or any loan to an eligible business with a  
78 stated maturity date of at least one year after the date of  
79 issuance, excluding revolving lines of credit and senior  
80 secured debt unless the chief executive or similar officer  
81 of the eligible business certifies that the eligible  
82 business sought and was denied similar financing from a  
83 depository institution, by a rural fund; provided that, with  
84 respect to any one eligible business, the maximum amount of  
85 investments made in such business by one or more rural  
86 funds, on a collective basis with all of the businesses'  
87 affiliates, with the proceeds of capital investments shall  
88 be the greater of twenty percent of the rural fund's capital  
89 investment authority or six million five hundred thousand  
90 dollars, exclusive of investments made with repaid or  
91 redeemed investments or interest or profits realized thereon;

92 (11) "Rural area", any county of this state that has a  
93 population of less than ninety thousand according to the  
94 2010 decennial census of the United States;

95           (12) "Rural fund", an entity certified by the  
96 department under the provisions of section 620.3510;

97           (13) "Rural investor", an entity that makes a capital  
98 investment in a rural fund;

99           (14) "Senior secured debt", any loan that is secured  
100 by a first mortgage on real estate with a loan to value  
101 ratio of less than eighty percent;

102           (15) "State tax liability", any liability incurred by  
103 any entity subject to the state income tax imposed under  
104 chapter 143, excluding withholding tax imposed under  
105 sections 143.191 to 143.265, or an insurance company paying  
106 an annual tax on its gross premium receipts, including  
107 retaliatory tax, or other financial institution paying taxes  
108 to the state or any political subdivision of the state under  
109 the provisions of chapter 148, or an express company which  
110 pays an annual tax on its gross receipts in this state.

620.3510. 1. A rural fund that seeks to have an  
2 equity investment certified as a capital investment eligible  
3 for credits authorized under the provisions of sections  
4 620.3500 to 620.3530 shall apply to the department. The  
5 department shall begin accepting applications within ninety  
6 days of the effective date of sections 620.3500 to  
7 620.3530. The application shall include:

8           (1) The amount of capital investment requested;

9           (2) A copy of the applicant's or an affiliate of the  
10 applicant's license as a rural business investment company  
11 under 7 U.S.C. Section 2009cc or as a small business  
12 investment company under 15 U.S.C. Section 681, and a  
13 certificate executed by an executive officer of the  
14 applicant attesting that such license remains in effect and  
15 has not been revoked;

16           (3) Evidence that, as of the date the application is  
17 submitted, the applicant or affiliates of the applicant have  
18 invested:

19           (a) At least one hundred million dollars in nonpublic  
20 companies located in counties within the United States with  
21 a population of less than fifty thousand according to the  
22 2010 decennial census of the United States; and

23           (b) At least thirty million dollars in nonpublic  
24 companies located in Missouri;

25           (4) A business plan that includes a revenue impact  
26 assessment projecting state and local tax revenue to be  
27 generated by the applicant's proposed qualified investments,  
28 prepared by a nationally recognized, third-party,  
29 independent economic forecasting firm using a dynamic  
30 economic forecasting model that analyzes the applicant's  
31 business plan over the ten years following the date the  
32 application is submitted to the department. Such plan shall  
33 include an estimate of the number of jobs created and jobs  
34 retained in this state as a result of the applicant's  
35 qualified investments; and

36           (5) A nonrefundable application fee of five thousand  
37 dollars payable to the department.

38           2. Within thirty days after the receipt of a completed  
39 application, the department shall grant or deny the  
40 application in full or in part. The department shall deny  
41 the application if:

42           (1) The applicant does not satisfy all of the criteria  
43 provided under subsection 1 of this section;

44           (2) The revenue impact assessment submitted with the  
45 application does not demonstrate that the applicant's  
46 business plan will result in a positive fiscal impact on  
47 this state over a ten-year period that exceeds the

48 cumulative amount of tax credits that would be issued to the  
49 applicant if the application were approved; or

50 (3) The department has already approved the maximum  
51 amount of capital investment authority under section  
52 620.3515.

53 3. If the department denies any part of the  
54 application, it shall inform the applicant of the grounds  
55 for such denial. If the applicant provides any additional  
56 information required by the department or otherwise  
57 completes its application within fifteen days of the notice  
58 of denial, the application shall be considered complete as  
59 of the original date of submission. If the applicant fails  
60 to provide the information or fails to complete its  
61 application within the fifteen-day period, the application  
62 shall remain denied and shall be resubmitted in full with a  
63 new submission date and a new application fee.

64 4. Upon approval of an application, the department  
65 shall certify the proposed equity investment as a capital  
66 investment eligible for credits under sections 620.3500 to  
67 620.3530, subject to the limitations contained in section  
68 620.3515. The department shall provide written notice of  
69 the certification to the applicant, which shall include the  
70 amount of the applicant's capital investment authority. The  
71 department shall certify capital investments in the order  
72 that the applications are received by the department.  
73 Applications received on the same day shall be deemed to  
74 have been received simultaneously. For applications that  
75 are complete and received on the same day, the department  
76 shall certify applications in proportionate percentages  
77 based upon the ratio of the amount of capital investment  
78 authority requested in an application to the total amount of  
79 capital investment authority requested in all applications.

620.3515. 1. The department shall certify capital investment authority under the provisions of sections 620.3500 to 620.3530 in amounts that would authorize not more than twenty-five million dollars in state tax credits to be claimed against state tax liability in any calendar year, excluding any credit amounts carried forward as provided under subsection 1 of section 620.3520. Within ninety days of the applicant receiving notice of certification, the rural fund shall issue the capital investment to, and receive cash in the amount of the certified amount from, a rural investor. At least ten percent of the rural investor's capital investment shall be composed of capital raised by the rural investor directly or indirectly from sources, including directors, members, employees, officers, and affiliates of the rural investor, other than the amount invested by the allocatee claiming the tax credits in exchange for such allocation of tax credits. The rural fund shall provide the department with evidence of the receipt of the cash investment within ninety-five days of the applicant receiving notice of certification.

2. If the rural fund does not receive the cash investment and issue the capital investment within such time period following receipt of the certification notice, the certification shall lapse and the rural fund shall not issue the capital investment without reapplying to the department for certification. Lapsed certifications shall revert to the department and shall be reissued pro rata to applicants whose capital investment allocations were reduced in accordance with the application process provided under subsection 4 of section 620.3510.

3. A rural fund, before making a qualified investment, may request from the department a written opinion as to

33 whether the business in which it proposes to invest is an  
34 eligible business. The department, not later than the  
35 fifteenth business day after the date of receipt of such  
36 request, shall notify the rural fund of its determination.  
37 If the department fails to notify the rural fund of its  
38 determination by the twentieth business day, the business in  
39 which the rural fund proposes to invest shall be deemed an  
40 eligible business.

620.3520. 1. Upon making a capital investment in a  
2 rural fund, a rural investor shall have a vested right to a  
3 credit against such entity's state tax liability that may be  
4 utilized on each credit allowance date of such capital  
5 investment in an amount equal to the applicable percentage  
6 for such credit allowance date multiplied by the purchase  
7 price paid to the rural fund for the capital investment.  
8 The amount of the credit claimed by a rural investor shall  
9 not exceed the amount of such entity's state tax liability  
10 for the tax year for which the credit is claimed. Any  
11 amount of credit that a rural investor is prohibited from  
12 claiming in a taxable year as a result of this section may  
13 be carried forward for use in any of the five subsequent  
14 taxable years, and shall not be carried back to prior  
15 taxable years. It is the intent of this act that a rural  
16 investor claiming a credit under the provisions of sections  
17 620.3500 to 620.3530 is not required to pay any additional  
18 tax that may arise as a result of claiming such credit.

19 2. No credit claimed under the provisions of sections  
20 620.3500 to 620.3530 shall be refundable or sellable on the  
21 open market. Credits earned by or allocated to a  
22 partnership, limited liability company, or S-corporation may  
23 be allocated to the partners, members, or shareholders of  
24 such entity for their direct use in accordance with the

provisions of any agreement among such partners, members, or shareholders, and a rural fund shall notify the department of the names of the entities that are eligible to utilize credits pursuant to an allocation of credits or a change in allocation of credits, or due to a transfer of a capital investment upon such allocation, change, or transfer. Such allocation shall not be considered a sale for the purposes of this section.

3. The department may recapture credits from a taxpayer that claimed a credit authorized under this section if:

(1) The rural fund does not invest sixty percent of its capital investment authority in qualified investments in this state within two years of the credit allowance date, and one hundred percent of its capital investment authority in qualified investments in this state within three years of the credit allowance date, provided that at least seventy percent of such initial qualified investments shall be made in eligible businesses located in rural areas or eligible businesses that are also agribusinesses;

(2) The rural fund fails to maintain qualified investments equal to ninety percent of its capital investment authority from the third anniversary until the sixth anniversary of the credit allowance date, with seventy percent of such investments maintained in eligible businesses located in rural areas or eligible businesses that are also agribusinesses. For each year the rural fund fails to maintain such investments, the department may recapture an amount of such year's allowed credits equal to the percentage difference between ninety percent of a rural fund's capital investment authority and the actual amount of qualified investments maintained for such year. For the

57 purposes of this subdivision, a qualified investment is  
58 considered maintained even if the qualified investment was  
59 sold or repaid so long as the rural fund reinvests an amount  
60 equal to the capital returned or recovered by the rural fund  
61 from the original investment, exclusive of any profits  
62 realized, in other qualified investments in this state  
63 within twelve months of the receipt of such capital.  
64 Amounts received periodically by a rural fund shall be  
65 treated as continually invested in qualified investments if  
66 the amounts are reinvested in one or more qualified  
67 investments by the end of the following calendar year. A  
68 rural fund shall not be required to reinvest capital  
69 returned from qualified investments after the fifth  
70 anniversary of the credit allowance date, and such qualified  
71 investments shall be considered held continuously by the  
72 rural fund through the sixth anniversary of the credit  
73 allowance date;

74 (3) The rural fund, before exiting the program in  
75 accordance with sections 620.3500 to 620.3530 or prior to  
76 thirty days after the sixth anniversary of the credit  
77 allowance date, whichever is earlier, makes a distribution  
78 or payment that results in the rural fund having less than  
79 one hundred percent of its capital investment authority  
80 invested in qualified investments in this state or held in  
81 cash or other marketable securities; or

82 (4) The rural fund violates the provisions of section  
83 620.3525, in which case the department may recapture an  
84 amount equal to the amount of a rural fund's capital  
85 investment authority found to be in violation of such  
86 provisions.



87 For the purposes of meeting and maintaining the objectives  
88 established for investment in subdivisions (1) and (2) of  
89 this subsection, a rural fund's qualified investments shall  
90 be multiplied by a factor of one and a quarter in counties  
91 with less than thirty thousand in population and more than  
92 thirteen thousand in population and shall be multiplied by a  
93 factor of one and a half in counties with a population of  
94 thirteen thousand or less.

95 4. Recaptured credits and the related capital  
96 investment authority shall revert to the department and  
97 shall be reissued pro rata to applicants whose capital  
98 investment allocations were reduced in accordance with the  
99 application process provided under subsection 4 of section  
100 620.3510.

101 5. No recapture shall occur until the rural fund has  
102 been given notice of noncompliance and afforded six months  
103 from the date of such notice to cure the noncompliance.

620.3525. No eligible business that receives a  
2 qualified investment under the provisions of sections  
3 620.3500 to 620.3530, or any affiliates of such eligible  
4 businesses, shall directly or indirectly:

5 (1) Own or have the right to acquire an ownership  
6 interest in a rural fund or member or affiliate of a rural  
7 fund, including, but not limited to, a holder of a capital  
8 investment issued by the rural fund; or

9 (2) Loan to or invest in a rural fund or member or  
10 affiliate of a rural fund, including, but not limited to, a  
11 holder of a capital investment issued by a rural fund, where  
12 the proceeds of such loan or investment are directly or  
13 indirectly used to fund or refinance the purchase of a  
14 capital investment under sections 620.3500 to 620.3530.

620.3530. 1. Rural funds shall submit a report to the department within the first fifteen business days after the second and third anniversary of the initial credit allowance date. The report following the second anniversary shall provide documentation as to the investment of sixty percent of the purchase price of such capital investment in qualified investments. The report following the third anniversary shall provide documentation as to the investment of one hundred percent of the purchase price of such capital investment in qualified investments. Unless previously reported pursuant to this subsection, such reports shall also include:

(1) The name and location of each eligible business receiving a qualified investment;

(2) Bank statements of such rural fund evidencing each qualified investment;

(3) A copy of the written opinion of the department, as provided in subsection 3 of section 620.3515, or evidence that such business was an eligible business at the time of such qualified investment, as applicable;

(4) The number of jobs created and jobs retained resulting from each qualified investment;

(5) The average annual salary of positions described in subdivision (4) of this subsection; and

(6) Such other information as required by the department.

2. For all subsequent years, rural funds shall submit an annual report to the department within ninety days of the beginning of the calendar year during the compliance period. The report shall include, but is not limited to, the following:

32           (1) The number of jobs created and jobs retained as a  
33 result of qualified investments;

34           (2) The average annual salary of positions described  
35 in subdivision (1) of this subsection; and

36           (3) Such other information as required by the  
37 department.

38           3. The program authorized pursuant to sections  
39 620.3500 to 620.3530 shall be considered a business  
40 recruitment tax credit under subdivision (4) of subsection 2  
41 of section 135.800, and any rural fund approved under this  
42 program shall be subject to the provisions of sections  
43 135.800 to 135.830.

44           4. On or after the sixth anniversary of the credit  
45 allowance date, a rural fund may apply to the department to  
46 exit the program and no longer be subject to regulation  
47 under the provisions of sections 620.3500 to 620.3530. The  
48 department shall respond to the exit application within  
49 fifteen days of receipt. In evaluating the exit  
50 application, the fact that no credits have been recaptured  
51 and that the rural fund has not received a notice of  
52 recapture that has not been cured pursuant to subsection 5  
53 of section 620.3520 shall be sufficient evidence to prove  
54 that the rural fund is eligible for exit. The department  
55 shall not unreasonably deny an exit application submitted  
56 under this subsection. If the exit application is denied,  
57 the notice shall include the reasons for such determination.

58           5. At the time a rural fund exits the program, it  
59 shall be subject to the following penalties if projected job  
60 creation metrics are not achieved:

61           (1) If sixty percent or less of the projected jobs in  
62 the rural fund's approved business plan are achieved, the  
63 rural fund shall pay the state a penalty payment of cash in

64 an amount equal to ten percent of the total tax credits  
65 distributed to the rural fund; or

66 (2) If more than sixty percent but less than eighty  
67 percent of the projected jobs in the rural fund's approved  
68 business plan are achieved, the rural fund shall pay the  
69 state a penalty payment of cash in an amount equal to five  
70 percent of the total tax credits distributed to the rural  
71 fund.

72 6. The department shall not accept any new  
73 applications for tax credits pursuant to sections 620.3500  
74 to 620.3530 after December 31, 2032.

75 7. The department may adopt such rules, statements of  
76 policy, procedures, forms, and guidelines as may be  
77 necessary to carry out the provisions of sections 620.3500  
78 to 620.3530. Any rule or portion of a rule, as that term is  
79 defined in section 536.010, that is created under the  
80 authority delegated in this section shall become effective  
81 only if it complies with and is subject to all of the  
82 provisions of chapter 536 and, if applicable, section  
83 536.028. This section and chapter 536 are nonseverable and  
84 if any of the powers vested with the general assembly  
85 pursuant to chapter 536 to review, to delay the effective  
86 date, or to disapprove and annul a rule are subsequently  
87 held unconstitutional, then the grant of rulemaking  
88 authority and any rule proposed or adopted after August 28,  
89 2022, shall be invalid and void.

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